REMARKS

Claims 20-21, 23-42, 44, and 47-51 are pending in the application. Claims 20, 21, 39, and 44 have been amended. New claims 48-51 have been added. Claims 22, 43 and 45 have been cancelled. Favorable action on the merits is earnestly solicited.

Claims 20-38 stand rejected under 35 U.S.C. §112, ¶2 as being indefinite. Independent claim 20 has been amended to now recite "a gas and high frequency current terminal at a first end of said applicator; [and] a cutting electrode at a second end of said applicator, opposite said first end." Applicants believe that this amendment resolves the §112 issue identified in the Office Action. Claim 45 has been cancelled and the subject matter has been incorporated into independent claim 20. The new language of claim 20 clarifyes that the insulating member is the element being displaced relative to the supply pipe. Accordingly, Applicants respectfully request withdrawal of the rejection.

Claims 20, 21, 23-26, 30, 32, 35-44 and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,149,648 to Cosmescu (hereinafter "the '648 patent") in view of U.S. Patent 5,836,909 to Cosmescu (hereinafter "the '909 patent"). The rejection is respectfully traversed.

Independent claim 20 recites, *inter alia*, "a path of displacement of said insulating casing tube is defined by a hitting contact of the collar or the external right-angle bend on the casing tube with an inwardly projecting edge of a proximal extension of the insulating cap and with a portion for fastening the current supply pipe in the insulating cap."

Independent claim 39 recites, *inter alia*, the "insulating cap is configured to cooperate with said insulating member to limit said displacement of the insulating member relative to said supply pipe."

The '648 patent and the '909 patent relate to devices for use in electrosurgery that provide the ability to cut tissue using an electrode and use of gas for coagulation. However, the devices of the '648 and '909 patents do not teach "a path of displacement of said insulating

casing tube is defined by a hitting contact of the collar or the external right-angle bend on the casing tube with an inwardly projecting edge of a proximal extension of the insulating cap and with a portion for fastening the current supply pipe in the insulating cap," as recited in independent claim 20. The Office Action relies on FIG. 6B of the '648 patent (the right angle near the label 151) to teach the collar or external-right angle bend of the casting tube. *See* Office Action at 3. However, FIG. 6B does not illustrate that the path of displacement of the insulating casing tube is defined by hitting contact of the collar or the external right-angle bend on the casing tube. The '909 patent fails to make up for this inadequacy.

Accordingly, the '648 patent and the '909 patent, either alone or in combination, do not teach "a path of displacement of said insulating casing tube is defined by a hitting contact of the collar or the external right-angle bend on the casing tube with an inwardly projecting edge of a proximal extension of the insulating cap and with a portion for fastening the current supply pipe in the insulating cap," as recited in independent claim 20. Similarly, both the '648 patent and the '909 patent, either alone or in combination, fail to teach "[an] insulating cap [that] is configured to cooperate with said insulating member to limit said displacement of the insulating member relative to said supply pipe," as recited in independent claim 39.

Furthermore, independent claim 39 recites, *inter alia*, "a supply pipe formed of an electrically conductive material...said electrically conductive material of said pipe conducts a high frequency current that drives said electrode."

The Office Action relies on elements 109 and 106 of '648 patent to teach the gas and high frequency current supply pipe of claim 39. *See* Office Action at 5. However, the '648 patent does not teach that the tubing 109 is electrically conductive. Indeed, it appears that the device of the '648 patent would pose a danger to the operator and the patient if tubing 109 were electrically conductive. The '909 patent fails to make up for this inadequacy. Accordingly, both the '648 patent and the '909 patent, either alone or in combination, fail to teach "a supply pipe formed of an electrically conductive material...said electrically conductive material of said pipe conducts a high frequency current that drives said electrode," as recited in independent claim 39.

Claims 21, 23-26, 30, 32, and 35-38 depend from claim 20, and claims 40-44 and 47 depend from claim 39 and are allowable over the cited art for at least the reasons presented for claims 20 and 29, respectively, and on their own merits. For at least the foregoing reasons, Applicants respectfully request that the rejection be withdrawn and claims 20, 21, 23-26, 30, 32, 35-44 and 47 be allowed.

Claim 34 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the '648 patent, in view of the '909 patent and U.S. Patent 5,306,238 to Fleenor. The rejection is respectfully traversed.

Claim 34 depends from claims from claim 23 which depends from independent claim 20 and is allowable over the cited art for the reasons presented previously for claim 20 and on its own merits. For at least the foregoing reasons, Applicants respectfully request that the rejection be withdrawn and claim 34 be allowed.

New claims 48-51 are allowable for at least the reasons presented above and on their own merits.

In view of the above, Applicants believe the pending application is in condition for allowance. Favorable action on the merits is earnestly solicited.

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Respectfully submitted,

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